

Chapter XCIV.

GENERAL APPROPRIATION BILLS.¹

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3553. Enumeration of the general appropriation bills.—The general appropriation bills are not enumerated or defined by any rule of the House, but have become established in the practice, increasing in number from time to time.³ They are fourteen in number:⁴

The legislative, executive, and judicial bill, the sundry civil bill, the District of Columbia bill, the fortifications bill, the pensions bill, the urgent deficiency bill, and the general deficiency bill, all of which are reported by the Committee on Appropriations.

The agricultural bill, which is reported by the Committee on Agriculture.

The Army bill and the Military Academy bill, which are reported by the Committee on Military Affairs.

The naval bill, which is reported by the Committee on Naval Affairs.

The diplomatic and consular bill, which is reported by the Committee on Foreign Affairs.

The Post-Office bill, which is reported by the Committee on the Post-Office and Post Roads.

The Indian bill, which is reported by the Committee on Indian Affairs.

Each of these bills is reported and passed annually.

¹ Discussion as to right of Senate to originate. Sections 1500, 1501 of Vol. II.

² See sections 4032–4053 of this volume for jurisdiction of the Committee on Appropriations and general conditions as to appropriation bills.

³ See First session Forty-ninth Congress, Record, p. 170, for a history of the development of the general appropriation bills. A rule of the House numbered 77 (see Journal, first session Forty-sixth Congress) enumerated 10 general appropriation bills; but that rule disappeared in the revision of 1880.

⁴ For the scope of these bills as to the appropriations carried by them see sections 4032–4053 of this volume.

The river and harbor bill, which is reported by the Committee on Rivers and Harbors, is not one of the general appropriation bills¹ and is not necessarily reported annually.

3554. A general appropriation bill (except the general deficiency) provides for the next fiscal year, and expenditures for preceding years are not in order on any bills reported by committees other than the Appropriations Committee.—On June 18, 1890,² the House being in Committee of the Whole House on the state of the Union considering the Indian appropriation bill, the Clerk read a paragraph providing for the payment to the Mexican Pottawatomie Indians, of Kansas, of a sum of money “in full of all their money demands and claims arising out of any payments heretofore made under treaties with the Pottawatomie Indian Nation.”

Mr. Joseph G. Cannon, of Illinois, made the point of order first, that the payment was not authorized by existing law; second, that it was not a provision for carrying on the Indian service for the coming fiscal year; third, that it was a mere claim; and, fourth, that the paragraph contained legislation.

The Chairman³ sustained the point of order.

3555. Also on the same day Mr. Bishop W. Perkins, of Kansas, offered an amendment to the Indian appropriation bill, appropriating a sum for the Citizen and Prairie bands of Pottawatomies under these conditions:

This amount to be in full for the sum due said Indians for arrears under article 3 of treaty of October 16, 1826; article 2, treaty of September 20, 1828; article 4, treaty of October 27, 1832; for educational purposes up to and including fiscal year ending June 30, 1891; this amount to be set apart as specified in said several treaties as a school fund for said Indians, and paid out under the direction of the Secretary of the Interior.

Mr. Joseph G. Cannon, of Illinois, having made the point of order, the Chairman⁴ ruled:

The Chair is of the opinion that an appropriation of \$5,000 for the year ending June 30, 1891, would be in order, the treaty being as the gentleman from Arkansas states; but the amount beyond that, the deficiency, is not, in the judgment of the Chair, in order on this bill.

Mr. Samuel W. Peel, of Arkansas, having appealed, the decision of the Chair was sustained, 38 ayes to 37 noes.

3556. Also on the same day Mr. Joseph G. Cannon, of Illinois, made the point of order against a proposition in the Indian appropriation bill to pay a sum to the same band of Indians “in full for the amount found due said Indians by supplemental report of commissioners appointed by the President of the United States under Senate amendment to article 10, treaty of August 7, 1868, with said Pottawatomie Indians.”

The Chairman⁵ ruled:

¹ See sections 3897–3903 of this work.

² First session Fifty-first Congress, Record, p. 6233.

³ Edward P. Allen, of Michigan, Chairman.

⁴ Edward P. Allen, of Michigan, Chairman. (First session Fifty-first Congress, Congressional Record, pp. 6228, 6231.)

⁵ Edward P. Allen, of Michigan, Chairman. (First session Fifty-first Congress, Congressional Record, pp. 6231, 6232)

The Chair in passing upon this point of order desires to say, in addition to what the gentleman from Kansas [Mr. Perkins], the chairman of the committee, has said, that he heartily acquiesces in all that he has said about the injustice of delaying these long-deferred claims against the Government of the United States in favor of these Indian. And the gentleman from Kansas [Mr. Perkins] has the Chair for a witness as to his assiduity and faithfulness in undertaking to bring these claims to the attention of Congress and the country that they might be adjudicated. But that does not do away with the duty of the Chair to rule as he understands the rules of this House require, that claims of this nature can not be put into or acted upon in a bill which provides for "the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1891." That all these claims can be paid whenever Congress desires to pay them is evident, and that the Committee on Indian Affairs has jurisdiction of these matters is also evident to the Chair, and they can be brought in by bills at any time and passed upon by this House; but the Chair still feels, and is stronger in his opinion than before, that upon an annual appropriation bill items of this kind have no place whatever, and the Chair sustains the point of order.

3557. On June 17, 1890,¹ the Indian appropriation bill being under consideration in Committee of the Whole House on the state of the Union, the Clerk read a paragraph appropriating a sum of money to carry out the treaty arrangements made with the Cherokee Indians by the United States of December 29, 1835, to pay their transportation to, and subsistence for a year after their arrival in, the Indian Territory.

Mr. Joseph G. Cannon, of Illinois, made the point of order that this was a claim or a deficiency.

The Chairman² sustained the point of order.

3558. On June 17, 1890,³ the Indian appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and the Clerk had read a paragraph providing for the payment of the expenses of transportation in a former year of 274 Creek Indians, at \$30 each, and subsistence for twelve months, at \$25 each, for 160 Creek Indians, the Indians being entitled to the sums per capita due them under the treaty of 1826 and the treaty of 1832 with the Creek Indians.

Mr. Joseph G. Cannon, of Illinois, made the point of order that this was a deficiency appropriation, not an appropriation for the coming fiscal year.

On June 18 the Chairman² ruled:

During the consideration of the bill by the Committee of the Whole yesterday a paragraph relative to the Cherokee Indians, to pay for their transportation to, and subsistence for a year after their arrival in, the Indian Territory, was the subject of a point of order made by the gentleman from Illinois [Mr. Cannon], the point being that the paragraph was not properly in this bill; that the item, if anything, was a claim or a deficiency, and had no place upon this general appropriation bill.

The Chair ruled upon that point of order and sustained it. Subsequently several other paragraphs were read, as to which the same and other points of order were made. These paragraphs embrace sundry items, some for the payment of money to individuals and others for the payment of money to tribes of Indians. The bill before the committee is entitled "A bill making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1891, and for other purposes." Had these items been offered as amendments to the bill in Committee of the Whole and had the point been made upon them, all points of order having been reserved, the Chair does not hesitate to say that they would not have been

¹ First session Fifty-first Congress, Record, p. 6201.

² Edward P. Allen, of Michigan, Chairman.

³ First session Fifty-first Congress, Record, pp. 6201, 6228.

in order. Though in the bill, they have no status higher than if offered as amendments. This is an appropriation bill, appropriating money for the current and contingent expenses of the Indian Department and for fulfilling certain treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1891, and for other purposes. The "other purposes," in the judgment of the Chair, are those incidental to the main purpose. If, then, these items could not be considered as amendments to the bill when offered in Committee of the Whole, neither can they be considered when reported in the bill. If they are anything, they are deficiencies—some of them—and others are claims of individuals.

3559. On January 28, 1897,¹ the Indian appropriation bill being under consideration in Committee of the Whole House on the state of the Union, the Clerk read a paragraph appropriating a sum of money to enable the Secretary of the Interior to reimburse the confederated Kaskaskia, Peoria, Piankeshaw, and Wea tribes of Indians the amount due them under the treaty of May 30, 1854.

Mr. Joseph G. Cannon, of Illinois, made the point of order that this was a claim and had no place on a bill appropriating for the service of the coming fiscal year.

The Chairman² sustained the point of order.

3560. On the same day Mr. Andrew R. Kiefer, of Minnesota, offered to the Indian appropriation bill an amendment appropriating a sum of money to certain Sioux scouts who served in 1862 and who were omitted from the pay roll of the year 1895, when payment was authorized.

Mr. Joseph G. Cannon made the point of order against the amendment.

The Chairman³ sustained the point of order.

3561. On January 28, 1897,⁴ Mr. James S. Sherman, of New York, offered to the Indian appropriation bill an amendment authorizing the Secretary of the Interior to pay the claims of the Chesapeake and Ohio Railroad Company for transportation of Indian pupils in September and October, 1889, to and from Hampton Normal and Agricultural Institute, out of the unexpended balance of appropriations for the support of Indian day and industrial schools for the fiscal year ending June 30, 1895.

Mr. Joseph G. Cannon, of Illinois, made the point of order that this was not in order on this bill.

The Chairman² sustained the point of order.

3562. Appropriations for the continuation of work on a public building, and not intended to supply any actual deficiency, belong to the sundry civil bill, not the general deficiency.—On March 17, 1880,⁵ the House was in Committee of the Whole House on the state of the Union, considering the deficiency appropriation bill.

Mr. Benjamin Butterworth, of Ohio, offered the following amendment:

For completing the custom-house and post-office building at Cincinnati, Ohio, \$150,000, said appropriation to be immediately available.

¹ Second session Fifty-fourth Congress, Record, p. 1258.

² Albert J. Hopkins, of Illinois, Chairman.

³ Albert J. Hopkins, of Illinois, Chairman. (Second session Fifty-fourth Congress, Congressional Record, p. 1258.)

⁴ Second session Fifty-fourth Congress, Record, p. 1263.

⁵ Second session Forty-sixth Congress, Record, p. 1650.

Against this amendment Mr. Joseph C. S. Blackburn, of Kentucky, made the point of order, under Rule XXI.

The Chairman¹ ruled:

Although the bill under consideration is not, technically speaking, a general appropriation bill, yet Rule 120² of the old series was always held to apply to bills of this character, as well as to original appropriation bills. The difficulty with the amendment of the gentleman from Ohio [Mr. Butterworth] seems to be that it does not come from any committee having any jurisdiction of the subject. The right of individuals upon their own responsibility to offer amendments to appropriation bills has been very much restricted by the third clause of Rule XXI of the new rules. Without commenting upon that clause, the Chair holds that the amendment is not in order, coming from an individual Member of the House and not from a committee having jurisdiction of the subject-matter.

Mr. Thomas B. Reed, of Maine, having called attention to the fact that this was a public work or object already in progress, the Chairman said:

There is now a law making an appropriation for the work upon the Cincinnati custom-house and court-house for the present fiscal year. This bill is one making appropriations for deficiencies only. The amendment proposed by the gentleman from Ohio [Mr. Butterworth] is not to supply any actual deficiency, but to make provision for the completion of the work. * * * If the bill under consideration were the sundry civil appropriation bill, a bill which properly relates to these subjects, the Chair would hold that such an amendment would be in order, although offered by an individual.

3563. Deficiencies are not in order on appropriation bills reported by committees other than the Committee on Appropriations.—On January 14, 1903,³ while the army appropriation bill was under consideration in Committee of the Whole House on the state of the Union, a paragraph was read appropriating a certain sum, “one-half of this amount to be immediately available.”

Mr. Joseph G. Cannon, of Illinois, made a point of order against the provision. After debate the Chairman⁴ said:

The bill under consideration is the general annual army appropriation bill for the fiscal year beginning July 1, 1903, and ending June 30, 1904. The general appropriation for the present fiscal year of 1903 was made in the bill last year. It seem to the Chair that any expenditure for the Army during the current year must necessarily be considered as an expenditure to make up deficiencies in the army appropriation bill for the fiscal year 1903, or the current year. Any bill, therefore, whether this bill or any other measure, providing for the appropriation of the sums so used, must be considered as a deficiency bill, and the appropriation itself, whether made in this measure or in a measure with another title, would be an appropriation to make good a deficiency—an amount not provided for in the army appropriation bill for the current fiscal year. Being a deficiency appropriation, it should be included in a deficiency bill, and under clause 3 of Rule XI the deficiency bill would be a bill referred to and coming from the Committee on Appropriations. As it seems to the Chair that this is to make good a deficiency, the Chair is constrained to sustain the point of order.

3564. Deficiency appropriations are in order in any general appropriation bill within the jurisdiction of the Committee on Appropriations.—On February 14, 1901,⁵ the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and a point of order

¹ John G. Carlisle, of Kentucky, Chairman.

² This rule is now section 2 of Rule XXI. (See sec. 3578 of this work.)

³ Second session Fifty-seventh Congress, Record, pp. 804, 805.

⁴ Henry S. Boutell, of Illinois, Chairman.

⁵ Second session Fifty-sixth Congress, Record, p. 2419.

had been raised by Mr. William A. Jones, of Virginia, against the following paragraph:

For rent of old custom-house at New York, N. Y.: For rental of temporary quarters for the accommodation of certain Government officials from August 28, 1899, to June 30, 1900, \$109,847.12; from July 1, 1900, to June 30, 1901, \$130,600; from July 1, 1901, to June 30, 1902, \$130,600; in all, \$371,047.12.

In support of his point of order Mr. Jones urged that the bill under consideration was to provide for the fiscal year ending June 30, 1902, and that all expenditures for prior years belonged on the general deficiency bill.

After debate, the Chairman¹ held:

The Chair finds that all the precedents offered seem to relate to the Indian appropriation bill, and the rules make a distinction between the jurisdiction of the two committees. The Indian Affairs Committee only have control of the general appropriation bill for the Indian Service, and the deficiencies are given to the Committee on Appropriations. Now, none of the precedents relate to any bill reported from the Committee on Appropriations, and no reason is given in any decision, so far as the Chair is able to find—and there are two or three pages of them—that would exclude the Committee on Appropriations from reporting any appropriations for a deficiency in a general appropriation bill. The Chair, therefore, overrules the point of order.²

3565. The payment of one-half of District of Columbia expenses out of District revenues is in order on appropriation bills other than the District bill.—On February 17, 1900,³ the legislative, etc., appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when this paragraph was read:

Of the foregoing amounts appropriated under public buildings and grounds the sum of \$27,130 shall be paid out of the revenues of the District of Columbia.

Mr. Sidney E. Mudd, of Maryland, made the point of order that this involved a change of law.

After debate, the Chairman⁴ held:

As the Chair understands it, the point of order raised by the gentleman from Maryland [Mr. Mudd] is that the provision to exclude which the point of order is invoked is a change of existing law. * * * Clearly this provision is for a work now in progress. The gentleman from Maryland does not contend, as the Chair understands, that it is not so. The parks, according to the understanding of the Chair, are not on a parity with the Capitol grounds, but are rather similar to the streets of the city. The organic act of 1878 clearly intended, and in section 5, rather more clearly than in section 2, states that Congress should charge one-half of all public expenses in the District to the District of Columbia. Section 5 of the act expressly names "streets and sewers and any other work." So that the Chair thinks it was clearly the intention of Congress by that organic act to provide that Congress should charge the District of Columbia with one-half of all public expenses in the District. And this, it seems to the Chair, is such an expenditure as Congress intended by the act of 1878 should be borne one-half by the District of Columbia. The Chair, therefore, overrules the point of order.

¹ Sereno E. Payne, of New York, Chairman.

² On January 30, 1819, the House adopted a rule that appropriations for carrying treaties into effect should not be included in a bill carrying appropriations for other objects. (Second session Fifteenth Congress, Journal, pp. 219, 221; Annals, pp. 872, 911.) This has long since ceased to be a rule of the House.

³ First session Fifty-sixth Congress, Record, pp. 1803–1896.

⁴ James S. Sherman, of New York, Chairman.

3566. An appropriation bill covering several subjects may fairly be considered a general appropriation bill within the privilege conferred by the rule.—On January 18, 1907,¹ Mr. Lucius N. Littauer, of New York, from the Committee on Appropriations, reported a bill (H. R. 24541) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1907, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying reports, was ordered to be printed.

Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked whether it would be in order for the gentleman from New York to immediately move to go into Committee of the Whole House on the state of the Union for the consideration of this bill.

The Speaker² said:

Upon examination the Chair finds that the bill covers several items, and can fairly be called, and is, in fact, a general deficiency bill.

3567. On April 5, 1900,³ Mr. Joseph G. Cannon, of Illinois, from the Committee on Appropriations, presented as privileged—

A bill making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1900, and for other purposes.

This bill, which carried a total of \$405,000, provided for fees of jurors, witnesses, etc., of United States courts, and other expenses of the Department of Justice.

3568. On March 8, 1900,⁴ Mr. Joseph G. Cannon, of Illinois, from the Committee on Appropriations, reported the bill (H. R. 9279) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1900, and for prior years, and for other purposes.

This bill was reported as privileged without question.

3569. An urgent deficiency bill, appropriating generally for the various Departments and Services of the Government, was held to be a general appropriation bill within the meaning of Rule XXI.—On January 17, 1900,⁵ the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6237) “making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1900, and for prior years, and for other purposes.”

During the reading of the bill Mr. William S. Cowherd, of Missouri, offered this amendment:

Add, after the word “dollars, in line 6, page 4, the following: “Also, to enable the Secretary of the Treasury to provide the new post-office building in Kansas City, Mo., with elevators, to complete that building, \$35,000.”

Thereupon Mr. Joseph G. Cannon, of Illinois, made the point of order that the amendment was not in order on a general appropriation bill, since it proposed an

¹ Second session Fifty-ninth Congress, Record, pp. 1347, 1348.

² Joseph G. Cannon, of Illinois, Speaker.

³ First session Fifty-sixth Congress, Record, p. 3799.

⁴ First session Fifty-sixth Congress, Record, p. 2664.

⁵ First session Fifty-sixth Congress, Record, p. 921.

appropriation unauthorized by law, the limit of cost for the building having been reached by appropriations already made.

Mr. Cowherd contended that the bill under consideration was not a general appropriation bill, and therefore that the amendment did not fall within the provision of Rule XXI,¹ section 2.

After debate the Chairman² held:

The gentleman from Missouri offers an amendment to the pending paragraph, to which the gentleman from Illinois makes the point of order that it is not in order because of the provisions of Rule XXI, section 2, which reads:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto."

In the opinion of the Chair, following the precedents, the point of order must be sustained if the pending bill is a general appropriation bill. The gentleman from Missouri, however, urges that the pending bill is not a general appropriation bill, and therefore that section 2 of Rule XXI does not apply; and in support of his position he cites the introduction into the House on two previous occasions of deficiency appropriation bills that were admitted, according to the method then pursued, not to be general appropriation bills. In each of those cases, however, it will be observed that the subject-matter of the bill could have been covered in a single paragraph. * * * There was no pretense that the bills contained subject-matter relating to the Departments of the Government or a majority of the Departments of the Government. There is a vast distinction between the bills to which the gentleman refers and the bill before the House. This bill carries the sum of \$58,000,000. It deals with the Executive Department, the War Department, the Navy Department, the District of Columbia, and various other subjects. It is manifestly on its face a general bill and, in the opinion of the Chair, must be so considered.

It is urged that the Committee on Appropriations can not present more than one general appropriation bill under any particular heading. There is nothing, so far as the judgment of the Chair goes, to prevent the Committee on Appropriations from dividing their general appropriation bills in case of necessity for such action on their part. The reason for the adoption of Rule XXI, section 2, was to prevent general legislation upon appropriation bills, and there is no reason why Rule XXI should be applicable to any general appropriation bill that does not apply with equal force to the one that is now before the House.

Without undertaking to put the decision at all upon this proposition, the Chair suggests that it may be a question whether or not the point made by the gentleman from Missouri can now be entertained. This bill was introduced into the House as a general appropriation bill. The right to so introduce it was recognized as a privileged right; it was submitted to the Committee of the Whole as a general appropriation bill. No Member rose in his place, either when the bill was presented or when it was committed to the Committee of the Whole House, to object that it was not a general appropriation bill, and it may very well be held that it is now too late to raise that question.

The House went into Committee of the Whole to consider it under the rules, and, without placing the decision upon that ground at all, the Chair sustains the point of order.

3570. On March 17, 1884,³ a deficiency bill, appropriating for several departments of the Government, was reported from the Committee on Appropriations. A question being raised as to whether or not the bill was a general appropriation bill, the Speaker⁴ said:

A special deficiency bill is not a general appropriation bill, because it is a bill which may or may not be presented to the House, according to the necessities of the Government. The general appropriation bills are bills which are required to be passed each year for the support of the Government.

¹ See section 3578 of this work.

² John Dalzell, of Pennsylvania, Chairman.

³ First session Forty-eighth Congress, Record, p. 1998.

⁴ John G. Carlisle, of Kentucky, Speaker.

3571. No appropriation for the support of armies shall be for a longer term than two years.—Article I, section 8, of the Constitution provides:

The Congress shall have power * * * to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

3572. Interpretation of the constitutional provision limiting the duration of appropriations for the support of armies.—On January 2, 1904,¹ the Solicitor-General of the United States, Henry M. Hoyt, rendered to the Secretary of War an opinion, which was approved by the Attorney-General, P. C. Knox, as to the construction of Article I, section 8, clause 12 of the Constitution, and the relation thereto of a proposed contract to pay a royalty in the use of certain gun carriages. After referring to the acts of Congress, the opinion proceeds:

These acts make the sums therein appropriated “to be available until expended,” and here arises the real inquiry, namely:

Whether, inasmuch as a judicious and proper use, for the purposes intended, of the moneys thus appropriated for military purposes, might, and in some cases probably would, extend over a period of more than two years, these appropriations are in conflict with Article I, section 8, clause 12 of the Constitution, which provides that Congress shall have power “to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.”

The words “to that use” refer to the raising and supporting armies, so that the clause is as if it had read “no appropriation of money to raise and support armies shall be for more than two years.” The question is, therefore, whether the appropriations here considered “for mountain guns, with their carriages, packing outfits, accessories and ammunition,” are appropriations to raise and support armies. To raise and support an army is one thing. To render it effective, by equipping it with guns, ammunition, and other means for attack and defense, is another; and the word “equip” was, in military parlance, so common and well known as to preclude the idea that the framers of the Constitution intended the words “raise and support” as including, or as the equivalent of, “raise, support, arm, or equip,” and thus to limit appropriations for forts, fortifications, heavy ordnance, arms, ammunition, and other means for the public defense to such as must be expended within two years.

Furthermore, it is not necessary to extend the meaning of the words “to raise and support” beyond their ordinary signification in order to include the power to arm and equip armies when they are raised and supported. That power follows as of course from the power to declare war; to raise and support armies; to provide forts, magazines, and arsenals; and to levy and collect taxes to provide for the common defense.

That the inhibition was not intended to go beyond the ordinary meaning of the term “raise and support,” nor to forbid Congress, in time of peace, to prepare for war by erecting and arming forts and fortifications, providing arsenals, heavy artillery, arms, ammunition, and other means for the common defense and public safety, even though this should require appropriations for more than two years, is manifest: First, from the fact that, had a matter of such vast importance been actually intended, it would have been expressed with the clearness and precision which characterizes the whole of the Constitution, and would not have been left to what is, at best, a very doubtful inference from an ambiguous expression; and, second, it is manifest from the broad, unlimited powers conferred upon Congress in other parts of that instrument.

Thus the power to declare war is also the power to prepare for, maintain, and carry on war, offensive and defensive; of constructing and arming forts and fortifications, providing heavy artillery, arms, ammunition, and all other mean of warfare. This may and often does require appropriations for more than two years. The power to do these things was not intended to be taken away or restricted by the inhibition of appropriations to raise and support armies. The two purposes were different. The one was to raise and support armies, and to guard against excess in this the power was limited; the other was to arm, equip, and render effective such armies as we might have within the previous limitation, and to provide for the common defense. And, as to this latter purpose, no restriction is imposed.

¹Vol. 25, Opinions of the Attorneys-General, p. 105.

Clause 17, section 8, Article I, which gives to the Government exclusive jurisdiction over all places purchased by the consent of a State, “for the erection of forts, magazines, arsenals, dockyards, and other needful buildings,” confers upon Congress an unlimited power to procure sites for, erect, arm and supply, at will, these forts, magazines, arsenals, and other needful buildings for military purposes; and the fact that, in order to do these things, appropriations for more than two years would be required, in no wise detracts from or restricts the exercise of this power.

The constitutional provision that “no money shall be drawn from the Treasury, but in consequence of appropriations” equally forbids the making of contracts or promises for the payment of money for which no appropriation has been made; so that, if appropriations “to raise and support armies” embraced appropriations for forts, magazines, arsenals, cannon, arms, etc., Congress would be without power to contract for the completion or supply of any of these except such as could be completed or supplied within two years after the appropriation therefor.

The wide and unlimited power to levy and collect taxes, etc., to “provide for the common defense and general welfare” fully authorizes Congress to provide forts, magazines, arsenals, guns, ammunition, and military stores and supplies, without reference to whether or not the appropriations therefor extend over more than two years; and, in reading this and the other clauses referred to, it is impossible to suppose that the powers thus conferred without condition or restriction were, in fact, intended to be limited and qualified by the clause here considered.

I have no hesitation in reaching the conclusion that the appropriations forbidden by Article I, section 8, clause 12 of the Constitution are those only which are to raise and support armies in the strict sense of the word “support,” and that the inhibition of that clause does not extend to appropriations for the various means which an army may use in military operations, or which are deemed necessary for the common defense, or which may be provided as a measure of precaution irrespective of the existence or magnitude of any present army.

And, answering your question more specifically, I am of opinion that the provisions referred to in the appropriation acts cited are not in conflict with clause 12, section 8, Article I of the Constitution.

3573. Executive communications are addressed to the Speaker and are by him referred.

The rule and the law governing the making up, transmittal, and reference of estimates for appropriations. (Footnote.)

Form and history of Rule XLII.

Rule XLII provides:

Estimates¹ of appropriations, and all other communications from the Executive Departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker and by him referred, as provided by clause 2 of Rule XXIV.²

This rule dates from March 15, 1867, when it was adopted with the object of giving to the House information which had hitherto been sent only to the Committee on Appropriations.³ It was old rule No. 159 before the revision of 1880. In the

¹The Statutes of the United States provide:

“All estimates of appropriations and estimates of deficiencies in appropriations intended for the consideration and seeking the action of any of the committees of Congress shall be transmitted to Congress through the Secretary of the Treasury, and in no other manner; and the said Secretary shall first cause the same to be properly classified, compiled, indexed, and printed, under the supervision of the chief of the division of warrants, estimates, and appropriations of his Department.” (Session Laws first session Forty-eighth Congress, p. 254, act of July 7, 1884.) All officers making estimates are to furnish the same to the Secretary of the Treasury by October 15 of each year. (31 Stat L., p. 1009.) Estimates of expenses of the Government are to be prepared and submitted according to the order and arrangement of the appropriation acts of the year preceding. (34 Stat. L., p. 448.)

²See section 3089.

³First session Fortieth Congress, Globe, p. 120; Journal, p. 46.

revision of 1890 it was modified so that the reference of the Communications should be made under the rule instead of by the House.¹

3574. The annual estimates of the Secretary of the Treasury for the support of the Government are printed in advance of the assembling of Congress.—On January 16, 1850,² the letter of the Secretary of the Treasury, transmitting the estimates for the service of the Government, was referred to the Ways and Means Committee. The index of the Journal contains the following entry:

Estimates not laid before the House by Speaker, but informally laid on Members' tables the first day of session, referred to the Committee of Ways and Means.³

3576. On December 18, 1847,⁴ the House

Ordered, That the estimates of appropriations, transmitted to the House by the Secretary of the Treasury on the 6th instant, be referred to the Committee of Ways and Means.

The index of the Journal⁵ has this entry:

This document was printed in the recess by order of the last House and was not, therefore, laid before the House in the usual way, and does not appear in the Journal at the time it was furnished to Members.

There is no mention of the receipt of the document in the Journal of the 6th.

These estimates, called the "Book of Estimates," are now printed in advance of the assembling of Congress. They are technically in the form of a letter to the Speaker, but are not actually delivered to him, and are not always introduced and referred in the House, although such procedure is technically required to give jurisdiction to the various committees reporting appropriation bills.⁶

¹ Communications from the heads of the Departments and from other officers whose duty it is to make reports to Congress or to the House are addressed to the Speaker, who causes a brief statement of their contents to be indorsed thereon. Immediately after the approval of the Journal, these communications are referred under the rule to appropriate committees.

² First session Thirty-first Congress, Journal, pp. 326, 1641.

³ This committee reported the appropriation bills then.

⁴ First session Thirtieth Congress, Journal, p. 108.

⁵ Page 1379.

⁶ For the provisions of law as to the manner of communicating estimates, attention is called to the Revised Statutes, second edition, Title 41, p. 720, sections 3660 to 3671; to 18 Stat., chapter 129, page 370, section 3, Act of March 3, 1875, and to section 2, deficiency act of July 7, 1884 (23 Stat., p. 254). In estimating for new objects, it is desirable that the title of the appropriation be put in as few words as possible. The estimate of the amount required for the service of a Department should be the exact amount the head of the Department expects to be called upon to expend during the fiscal year, as, by the provisions of the fifth section of the act of July 12, 1870, Revised Statutes, second edition, page 729, section 3690, unexpended balances are not applicable to the service of the succeeding year.

The estimates should be transmitted to the Treasury Department in accordance with the following paragraph from the act of March 3, 1875 (18 Stat., chap. 129, p. 370): "Section. 3. That it shall be the duty of the heads of the several Executive Departments, and of other officers authorized or required to make estimates, to furnish to the Secretary of the Treasury, on or before the first day of October of each year, their annual estimates for the public service."

"And hereafter all estimates of appropriations and estimates of deficiencies in appropriations intended for the consideration and seeking the action of any of the committees of Congress shall be transmitted to Congress through the Secretary of the Treasury, and in no other manner; * * * ."—Deficiency act of July 7, 1884, section 2 (23 Stat., p. 254).

3576. Estimates of expenses of the Government are to be prepared and submitted according to the order and arrangement of the appropriation acts of the year preceding.

A law directs the committees to draft the appropriation bills on the general order and arrangement of the acts of the preceding year.

Section 4 of the act approved June 22, 1906,¹ provides:

Hereafter the estimates for expenses of the Government, except those for sundry civil expenses, shall be prepared and submitted each year according to the order and arrangement of the appropriation acts for the year preceding. And any changes in such order and arrangement, and transfers of salaries from one office or bureau to another office or bureau, or the consolidation of offices or bureaus desired by the head of any Executive Department may be submitted by note in the estimates. The committees of Congress in reporting general appropriation bills shall, as far as may be practicable, follow the general order and arrangement of the respective appropriation acts for the year preceding.

Hereafter the heads of the several Executive Departments and all other officers authorized or required to make estimates for the public service shall include in their annual estimates furnished the Secretary of the Treasury for inclusion in the Book of Estimates all estimates of appropriations required for the service of the fiscal year for which they are prepared and submitted, and special or additional estimates for that fiscal year shall only be submitted to carry out laws subsequently enacted, or when deemed imperatively necessary for the public service by the Department in which they shall originate, in which case such special or additional estimate shall be accompanied by a full statement of its imperative necessity and reasons for its omission in the annual estimates.

3577. The House once passed a resolution requesting the President to cause a reduction of the executive estimates to be made.—On December 15, 1873,² the House, on account of the financial embarrassment throughout the country, passed a resolution requesting the President to cause a revision of the estimates submitted in the annual Book of Estimates, in order to make a reduction in the totals.

¹Legislative act, first session Fifty-ninth Congress. (34 Stat. L., p. 448.)

²First session Forty-third Congress, Journal, p. 128; Record, pp. 211–214.